



[BILLING CODE 3290-F3]

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS455]

### WTO Dispute Settlement Proceeding Regarding Indonesia – Importation of Horticultural Products, Animals, and Animal Products

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (“USTR”) is providing notice that the United States has requested and obtained the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”). That request may be found at [www.wto.org](http://www.wto.org) contained in a document designated as WT/DS455/7. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 2, 2013, to be assured of timely consideration by USTR.

**ADDRESSES:** Public comments should be submitted electronically to [www.regulations.gov](http://www.regulations.gov), docket number USTR-2013-0002. If you are unable to provide submissions at [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should

be submitted by fax only to Sandy McKinzy at (202) 395-3640.

**FOR FURTHER INFORMATION CONTACT:** Arthur Tsao, Assistant General Counsel,  
Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C.  
20508, (202) 395-3150.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that a dispute settlement panel has been requested and established pursuant to the WTO Dispute Settlement Understanding (“DSU”). The panel will hold its meetings in Geneva, Switzerland.

### **Major Issues Raised by the United States**

The United States has requested the establishment of a panel to consider Indonesia’s import restricting measures on the importation of horticultural products, animals, and animal products. In particular, Indonesia imposes non-automatic import licensing regimes for horticultural products and for animals and animal products pursuant to which an importer must complete multiple steps prior to importing those products into Indonesia. The legal instruments through which Indonesia maintains these measures are set out in the panel request.

Indonesia imposes a non-automatic import licensing regime for horticultural products pursuant to which an importer must complete multiple steps prior to importing a horticultural product into

Indonesia. These steps include, first, an importer must obtain a Horticultural Product Import Recommendation (“RIPH”) certificate from the Ministry of Agriculture. When issuing the RIPH certificate, the Ministry of Agriculture considers factors such as production and availability of similar products domestically, domestic consumption of the product, and potential of the imported product to distort the market. Second, an importer must apply to receive a designation as a Producer Importer of Horticultural Products or Registered Importer of Horticultural Products from the Ministry of Trade. Third, for each imported product, the importer must apply to the Minister of Trade for an import license by submitting the RIPH certificate and the designation.

Indonesia also imposes a non-automatic import licensing regime and quotas for animals and animal products pursuant to which an importer must complete multiple steps prior to importing an animal or animal product into Indonesia. These steps include, first, importers must receive an Import Approval Recommendation (“RPP”) from the Ministry of Agriculture to import animals or animal products. After receiving the RPP, the importer must then apply for an import license with the Ministry of Trade. The Ministry of Trade only allows the importation of the product if, among other factors, domestic production and supply of the product do not meet “demand for public consumption at reasonable price.”

Indonesia’s government also sets the quotas for animals and animal products twice a year, which is enforced through the import licensing regime.

Through these measures, Indonesia appears to have acted inconsistently with the following obligations: Articles X:3(a) and XI:1 of the General Agreement on Tariffs and Trade 1994;

Article 4.2 of the Agreement on Agriculture; and Articles 3.2 and 3.3 the Agreement on Import Licensing Procedures.

### **Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to [www.regulations.gov](http://www.regulations.gov) docket number USTR-2013-0002. If you are unable to provide submissions by [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR-2013-0002 on the home page and click “search”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Submit a Comment!” (For further information on using the [www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The [www.regulations.gov](http://www.regulations.gov) website allows users to provide comments by filling in a “Type Comments” field, or by attaching a document using an “Upload File” field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comments” field.

A person requesting that information, contained in a comment that he/she submitted, be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with Section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter –

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. § 3537(e)), USTR

will maintain a docket on this dispute settlement proceeding, docket number USTR-2013-0002, accessible to the public at [www.regulations.gov](http://www.regulations.gov) .

The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at [www.ustr.gov](http://www.ustr.gov) : the United States' submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, and, if applicable, the report of the Appellate Body, will also be available on the website of the World Trade Organization, at [www.wto.org](http://www.wto.org). Comments open to public inspection may be viewed at [www.regulations.gov](http://www.regulations.gov) .

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**Juan Millan,**

**Assistant United States Trade Representative  
for Monitoring and Enforcement**

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